

**SEALED**

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF TEXAS  
DALLAS DIVISION

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
NOV - 2 2007  
By DP  
Deputy

UNITED STATES OF AMERICA  
ex. rel. CARL MALLETT,  
Plaintiff,

vs.

PFIZER, INC.  
Defendant.

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§

**307 CV 1835-K**  
CIVIL ACTION NUMBER

**FILED UNDER SEAL PURSUANT TO**  
31 U.S.C. §3730

16289

**PLAINTIFF'S ORIGINAL COMPLAINT**

COMES NOW, and under seal pursuant to 31 U.S.C. §3730, CARL MALLETT ("Mallett") on behalf of the United States, and files this Original Complaint against PFIZER, INC. ("Pfizer") and shows:

**I.  
PARTIES**

1. Carl Mallett is a resident of the State of Texas and a former employee of Pfizer, Inc., a corporation with its principal place of business in New York. Pfizer may be served with process through its registered agent for service of process in Texas: CT Corp. System, 350 N. St. Paul, Dallas, Texas 75201.

2. Pfizer is principally engaged in the manufacture and sale of pharmaceuticals including prescription pharmaceuticals falling under the jurisdiction and regulation of the U.S. Food and Drug Administration ("FDA").

3. Carl Mallett is the original source of the facts and information hereinafter set forth concerning the activities of

**PLAINTIFF'S ORIGINAL COMPLAINT**

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the Defendant. The facts averred herein are based entirely upon his personal observation and documents in his possession.

**II.  
JURISDICTION**

4. At all times material hereto, Pfizer regularly conducted substantial business within the Northern District of Texas, maintained permanent employees and officers, and made and is making significant sales within the Northern District of Texas, and thus is subject to personal jurisdiction in the Northern District of Texas.

**III.  
FACTS**

5. The realtor has prepared, and will serve with this Complaint, a disclosure pursuant to 31 U.S.C. §3730(2) of information in his possession and of which he is the original source.

6. AROMASIN®. In 1999, Pharmacia & Upjohn obtained approval from the FDA to market the prescription drug exemestane (trade name Aromasin®). Pharmacia & Upjohn merged with Pfizer, Inc. In 2003, thus the rights to the Aromasin® product was transferred to Pfizer in 2003. Aromasin® was originally approved for the treatment of advanced breast cancer in postmenopausal women whose disease has progressed following tamoxifen therapy. The product was labeled exclusively for this usage until October 2005, when Pfizer received additional approval for use of

Aromasin® for adjuvant treatment of postmenopausal women with estrogen-receptor positive early breast cancer who have received two to three years of tamoxifen and are switched to Aromasin® for completion of a total of five consecutive years of adjuvant hormonal therapy. Both approved uses of Aromasin® involve a prior usage of tamoxifen. The FDA has not approved Aromasin® for any other purpose, in particular, the FDA has not approved Aromasin® as a first-line treatment for breast cancer. Sales for Aromasin® were \$143,000,000 for 2004 and \$247,000,000 for 2005. For 2006, sales of Aromasin® were \$320,000,000.

7. CAMPTOSAR®. In 1996, Pharmacia & Upjohn obtained approval from the FDA to market the prescription drug irinotecan hydrochloride (trade name Camptosar®). Pharmacia & Upjohn merged with Pfizer, Inc. In 2003, thus the rights to the Camptosar® product was transferred to Pfizer in 2003. Camptosar® was originally approved as a second-line treatment for advanced colorectal cancer following failure of initial 5-FU-based therapy. The product was labeled exclusively for this usage until April 2000, when Pfizer received additional approval for use of Camptosar® as a first-line treatment for advanced colorectal cancer in combination with 5-FU/LV. Sales of Camptosar® were \$554,000,000 for 2004, and \$910,000,000 for 2005. For 2006, sales of Camptosar® were \$903,000,000.

8. SUTENT®. In 2006, Pfizer obtained approval from the

FDA for sunitinib melate (trade name Sutent®). Sutent® is indicated for the treatment of gastrointestinal stromal tumor after disease progress on or intolerance to imatinib mesylate and for the treatment of advanced renal cell carcinoma. For 2006, sales of Sutent® were \$219,000,000.

9. ELLENCÉ®. In 1999, Pharmacia & Upjohn obtained approval from the FDA to market the prescription drug epirubicin (trade name Ellence®). Pharmacia & Upjohn merged with Pfizer, Inc. In 2003, thus the rights to the Ellence® product was transferred to Pfizer in 2003. Ellence® was originally approved as a component of adjuvant therapy in patients with evidence of axillary node tumor involvement following resection of primary breast cancer. Sales for Ellence® were \$344,000,000 for 2004 and \$367,000,000 for 2005. For 2006, sales of Ellence® were \$312,000,000.

10. Under applicable statutes and regulations, the manufacturer of a prescription drug regulated by the FDA may not promote or market the use of the drug for a purpose other than those approved by the FDA. Uses of a prescription drug for purposes other than those approved by the FDA are referred to as "off-label" uses. Promotion by a drug manufacturer of "off-label" uses of prescription drugs is strictly illegal and contrary to the explicit policies and regulations of the United States Government.

11. After achieving FDA approval for Aromasin®, Camptosar®, Ellence®, and Sutent®, Pfizer engaged in a scheme to increase the sales of these drugs while avoiding the substantial expense and delay of petitioning the FDA for approval of expanded or additional uses of the drugs. The scheme consisted of clandestine promotion of off-label uses of the drugs, all in direct contravention of rules and regulations of the FDA and the Health Care Finance Agency.

12. This scheme was carried out in the following and other ways:

- a. For the period after initial approval until October 2005, Aromasin® was actively promoted by Pfizer and Pfizer employees for adjuvant use in women with early breast cancer, an off-label use.
- b. From March 2004 to October 2005, Pfizer actively promoted a New England Journal of Medicine study which studied the use of Aromasin® as a first-line treatment for metastatic breast cancer, an off label use.
- c. Subsequent to approval for adjuvant use in women with early breast cancer who have received two to three years of tamoxifen therapy, Pfizer and Pfizer employees actively promoted the use of Aromasin® as a first-line cancer treatment drug, an off label use.
- d. Pfizer instructed sales staff to actively promote

physician attendance at a Continuing Medical Education Course promoting studies of Camptosar® , a violation of CME/CE guidelines.

- e. Pfizer instructed sales staff to promote the use of Ellence® as a treatment for metastatic breast cancer, an off label use.
- f. Pfizer instructed sales staff to promote various non-approved studies involving Ellence®.
- g. Pfizer directed sales staff to direct physicians to a study on Sutent® in violation of federal law.
- h. Pfizer instructed sales staff to being promotion of Stutent® prior to receiving approval to market the drug in January of 2006.

13. For each of the four drugs - Aromasin®, Camptosar®, Ellance®, and Sutent® - a percentage of the drugs use is off label. Furthermore, a percentage of patients who use these drugs have their prescriptions paid for directly or indirectly, by the United States, in the form of reimbursements through medicare and medicaid, and purchases by the Veterans Administration.

14. The off-label uses of these drugs which are actively being promoted by Pfizer are uses which are not recognized as medically accepted uses by the American Hospital Formulary Service Drug Information, the United States Pharacopeia-Drug Information, or the American Medical Association Drug

Evaluations. Thus, these off-label uses are beyond the scope of uses designated by federal law and regulation, in particular 42 U.S.C. §1396r-8, as eligible for coverage by the medicare and medicaid programs.

**COUNT I  
DIRECT SALES TO U.S. GOVERNMENT**

15. Pfizer has sold, and is selling, significant quantities of these drugs directly to the U.S. Government for off-label uses.

16. Pfizer is conducting, and has conducted, illegal direct promotion of off-label uses of these drugs directly to the U.S. Government. Pfizer's activity has directly resulted in a greatly increased use of these drugs by the U.S. Government. Pfizer's sales to the U.S. Government have been derived through a pattern of fraud, to wit, the deliberate violation of the laws and regulations of the United States and the deliberate active concealment of those violations. Pfizer's deliberate violation of federal law used as a method of procuring sales of drugs to an agency of the federal government constituted a False Claim within the meaning of 31 U.S.C. §3729.

**Count II  
DELIBERATE AVOIDANCE OF FDA REGULATIONS/  
MEDICARE AND MEDICAID FINANCED SALES**

17. A significant percentage of patients who use or have used these drugs for off-label purposes are persons whose prescriptions are paid for in whole or in part by state-

administered medical assistance programs which received 90% reimbursement from the federal government, to wit, medicare and medicaid.

18. The medicare and medicaid programs of the federal government include detailed provisions, by statute and regulation, concerning reimbursement for prescription drugs, drug utilization review, eligibility of various drugs for full federal participation ("FFP"), price controls on prescription drugs, and drug manufacturer rebate agreements. These laws and regulations include, inter alia, as set forth as 42 U.S.C. §1395Y(c), that no federal payment shall be made in the case of prescription drug for which the FDA has issued a notice of hearing regarding the effectiveness of the drug. Thus, the taking of a regulatory action by the FDA against the sale and promotion of a drug will, in circumstances, immediately interrupt the flow of federal funds for reimbursements of prescriptions written for the drug.

19. Direct promotion of off-label usage of a drug constitutes "labeling" as defined by the food and drug laws of the United States. It is reasonably certain, and Pfizer is aware, that if the FDA became aware of its extensive program of illegal promotion of off-label uses of these drugs, the FDA would take administrative action against Pfizer, including, among other things, a notice of hearing regarding the effectiveness of these drugs for the promoted off-label uses. Such a notice would, by



federal statute, instantly interrupt the flow of federal funds for reimbursement for off-label prescriptions.

20. Pfizer has, as alleged, actively concealed its off-label promotion of these drugs from the FDA. Said active concealment is motivated by the desire to, and has had the effect of, preserving the flow of federal funds to reimburse these prescriptions. Said active concealment constitutes a pattern of fraudulent conduct through which federal payments are derived, and constitutes False Claims within the meaning of 31 U.S.C. §3729.

**COUNT III  
AVOIDING FEDERAL PRICE CONTROLS/  
EXPERIMENTAL USE OF DRUG**

21. Federal law, in particular 21 C.F.R. §312.7, imposes price controls on investigational new drugs used in clinical trials. The regulations state that charging for an investigational new drug is not permitted without FDA approval.

22. Pfizer has launched an illegal program of experimentation with Aromasin®. Pfizer has actually encouraged many physicians to experiment with Aromasin® for off-label uses or to conduct comparative testing of the drug with patients. These experimental programs are informal, generally unscientific, and not reported to the FDA. These informal experiments have been conducted for the dual purposes of increasing sales of Aromasin® while at the same time developing informal data for

possible use with the FDA. These informal experiments were conducted by means of prescriptions to patients whose prescriptions have been paid for, in a substantial number of cases, by medicare and medicaid at regular prices.

23. Pfizer's deliberate avoidance of federal price controls on the experimental investigational use of drugs has caused financial harm to the federal government by inducing the federal government to pay for drug prescriptions for which payment is prohibited by federal law. Pfizer's deliberate avoidance of federal price controls on experimental use of drugs constitutes a patten of fraudulent conduct which induced payments by the federal government, and constituted False Claims within the meaning of 31 U.S.C. §3729.

**COUNT IV  
VIOLATING STATE FORMULARIES/  
MEDICARE AND MEDICAID**

24. Under the statutes and regulations establishing the medical and medicaid programs, the individual states are permitted to establish drug utilization review boards and formularies which define those prescriptions drugs and their uses for which a state agency will make reimbursement under their medicare programs. Federal law, in particular 42 U.S.C. §1396r-8, requires a state formulary to include medically accepted uses of prescription drugs by reference to the publications set forth above.

25. Many state medicare agencies intend not to reimburse for prescription drugs for uses not set forth in the publications referred to above, in that the states do not intend to spend money on prescriptions not recognized as medically necessary in sources specified by federal law. However, many states lack the technical ability to monitor precisely for medical diagnoses in the case of individual prescriptions, and thus lack the technical ability to reject reimbursement for all off-label uses of prescription drugs which are not medically accepted according to the federally specified publications. This lack of technical ability represents a loop hole in the scheme of this medicare and medicaid program.

26. Pfizer has recognized and aggressively exploited this loop hole by means of a direct, illegal, nationwide program of promotion of off-label use of these drugs by physicians. Pfizer has conducted this program of promotion knowing that prescriptions for these drugs are generally reimbursed by the state medical programs even though individual prescriptions for Aromasin® fall outside the state formularies because they are not medically accepted.

27. Pfizer's aggressive, illegal scheme of off-label promotion has induced federal payments through a pattern of fraudulent conduct by causing the states, and thus the federal government, to pay out sums to claimants they did not intend to

benefit. Pfizer's conduct constitutes False Claims within the meaning of 31 U.S.C. §3729.

**COUNT V  
FRUSTRATION OF FEDERAL POLICY**

28. All of the conduct referred to above, to wit, off-label promotion of Aromasin®, Camptosar®, Ellence® and Sutent® in violation of FDA rules, deliberate avoidance of federal price controls of experimental drugs, inducement of physicians and the U.S. Government to prescribe or purchase these drugs by the use of false statements, and avoidance of state formulary restrictions, are substantial and deliberate frustrations of clear federal law, regulation and policy concerning the promotion and sales of prescription drugs.

29. In the years 2004-2006, Pfizer has sold more than \$4,000,000,000 of Aromasin®, Camptosar®, Ellence® and Sutent® knowing that such sales were directly or indirectly paid for by the federal government, and knowing that such sales and the promotions leading to them represented direct frustration and violation of federal law, regulation and policy, and knowing that the federal government was paying out sums on behalf of beneficiaries it did not intend to benefit, to wit, veterans and medicare and medicaid patients who were prescribed off-label uses of these drugs as a result of Pfizer's illegal promotions and schemes. Pfizer's overall pattern of conduct aimed at avoiding federal law while inducing the payment of federal funds was a

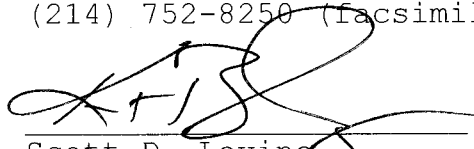
patter to fraud to induce federal payments and constituted False Claims within the meaning of 31 U.S.C. §3729.

WHEREFORE, the Plaintiff demands judgment on behalf of the United States, together with all costs, fees, awards, and interest allowed by 31 U.S.C. §3730.

Respectfully Submitted,

Jon H. Randall  
State Bar No. 00791483

**Berry & Randall, L.L.P**  
Market-Ross Place  
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Dallas, Texas 75202  
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Scott D. Levine  
State Bar No. 007  
Kurt C. Banowsky  
State Bar No. 00787036

**Banowsky & Levine, P.C.**  
790 Coit Central Tower  
12001 N. Central Expressway  
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**ATTORNEYS FOR PLAINTIFF**

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**SEALED**

**CIVIL COVER SHEET**

FILED UNDER  
SEAL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> United States of America ex. rel. Carl Mallett  <b>(b)</b> County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number) Berry & Randall, 1710 Market Street, Suite 320 LB 41 Dallas, Texas 75202	<b>DEFENDANTS</b> Pfizer, Inc.  <div style="text-align: center; font-size: 24pt; font-weight: bold;">307 CV 1835-K</div> County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)  <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:33%;">PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated and Principal Place of Business In This State</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> </tr> </table>	Citizen of This State	PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated and Principal Place of Business In This State	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation								

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <table style="width:100%;"> <tr> <td style="width:50%;"> <b>PERSONAL INJURY</b>  <input type="checkbox"/> 310 Airplane  <input type="checkbox"/> 315 Airplane Product Liability  <input type="checkbox"/> 320 Assault, Libel &amp; Slander  <input type="checkbox"/> 330 Federal Employers' Liability  <input type="checkbox"/> 340 Marine  <input type="checkbox"/> 345 Marine Product Liability  <input type="checkbox"/> 350 Motor Vehicle  <input type="checkbox"/> 355 Motor Vehicle Product Liability  <input type="checkbox"/> 360 Other Personal Injury                         </td> <td style="width:50%;"> <b>PERSONAL INJURY</b>  <input type="checkbox"/> 362 Personal Injury - Med. Malpractice  <input type="checkbox"/> 365 Personal Injury - Product Liability  <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b>  <input type="checkbox"/> 370 Other Fraud  <input type="checkbox"/> 371 Truth in Lending  <input type="checkbox"/> 380 Other Personal Property Damage  <input type="checkbox"/> 385 Property Damage Product Liability                         </td> </tr> </table>	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability			
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		
		<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		
		<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes		

<b>V. ORIGIN</b> <input checked="" type="checkbox"/> 1 Original Proceeding	(Place an "X" in One Box Only) <input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

**VI. CAUSE OF ACTION** Brief description of cause: Action under the False Claims Act 31 U.S.C. §1370

<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<b>DEMAND \$</b>	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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**VIII. RELATED CASE(S) PENDING OR CLOSED** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: November 2, 2007

SIGNATURE OF ATTORNEY OF RECORD: *Kurt C. Banowsky* TX Bar No 00787036

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_